

## Department of Energy

(3) In reviewing requests for rating authority in advance of a rated prime contract, the Department of Energy or the Department of Commerce, as appropriate, will consider, among other things, the following criteria:

- (i) The probability that the prime contract will be awarded;
- (ii) The impact of the resulting rated orders on suppliers and on other authorized programs;
- (iii) Whether the contractor is the sole source;
- (iv) Whether the item being produced has a long lead time;
- (v) The time period for which the rating is being requested.

(4) The Department of Energy or the Department of Commerce, as appropriate, may require periodic reports on the use of the rating authority granted under paragraph (c) of this section.

(5) If a rated prime contract is not issued, the person shall promptly notify all suppliers who have received rated orders pursuant to the advanced rating authority that the priority rating on those orders is cancelled.

### **§ 217.42 Examples of assistance.**

(a) While special priorities assistance may be provided for any reason in support of this part, it is usually provided in situations where:

- (1) A person is experiencing difficulty in obtaining delivery against a rated order by the required delivery date; or
- (2) A person cannot locate a supplier for an item or service needed to fill a rated order.

(b) Other examples of special priorities assistance include:

- (1) Ensuring that rated orders receive preferential treatment by suppliers;
- (2) Resolving production or delivery conflicts between various rated orders;
- (3) Assisting in placing rated orders with suppliers;
- (4) Verifying the urgency of rated orders; and
- (5) Determining the validity of rated orders.

### **§ 217.43 Criteria for assistance.**

Requests for special priorities assistance should be timely, *i.e.*, the request has been submitted promptly and enough time exists for the Department of Energy, the Delegate Agency, or the

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Department of Commerce for industrial resources to effect a meaningful resolution to the problem, and must establish that:

- (a) There is an urgent need for the item; and
- (b) The applicant has made a reasonable effort to resolve the problem.

### **§ 217.44 Instances where assistance may not be provided.**

Special priorities assistance is provided at the discretion of the Department of Energy, the Delegate Agencies, or the Department of Commerce when it is determined that such assistance is warranted to meet the objectives of this part. Examples where assistance may not be provided include situations when a person is attempting to:

- (a) Secure a price advantage;
- (b) Obtain delivery prior to the time required to fill a rated order;
- (c) Gain competitive advantage;
- (d) Disrupt an industry apportionment program in a manner designed to provide a person with an unwarranted share of scarce items; or
- (e) Overcome a supplier's regularly established terms of sale or conditions of doing business.

## **Subpart E—Allocation Actions**

### **§ 217.50 Policy.**

(a) It is the policy of the Federal Government that the allocations authority under title I of the Defense Production Act may:

(1) Only be used when there is insufficient supply of a material, service, or facility to satisfy national defense supply requirements through the use of the priorities authority or when the use of the priorities authority would cause a severe and prolonged disruption in the supply of materials, services, or facilities available to support normal U.S. economic activities; and

(2) Not be used to ration materials or services at the retail level.

(b) Allocation orders, when used, will be distributed equitably among the suppliers of the materials, services, or facilities being allocated and not require any person to relinquish a disproportionate share of the civilian market.